



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/824,646

04/15/2004

Krystal Krull

P68854US0

7690

136

7590

08/07/2006

JACOBSON HOLMAN PLLC  
400 SEVENTH STREET N.W.  
SUITE 600  
WASHINGTON, DC 20004

EXAMINER

NEWTON, JARED W

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/824,646	<b>Applicant(s)</b> KRULL, KRYSTAL	
	<b>Examiner</b> Jared W. Newton	<b>Art Unit</b> 3634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-10, 13-15, 21 and 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 16-20, 22-24, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/5/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 1-10, 13-15, 21, and 25-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 15, 2006.

### ***Specification***

The disclosure is objected to because of the following informalities:

- The fifth word, "shown", in line 10 of page 12 should be removed.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 12, 18, 19, 20, 22, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,241,106 to Fujita et al.

In regard to claims 11 and 19, Fujita et al. disclose a movable storage system comprising: a plurality of moving 21 and fixed 3 storage racks or elements (see FIG. 1); a guide arrangement 2a,2b for guiding movement of the racks; each of said movable

Art Unit: 3634

storage racks 21 including vertically-oriented lower wheels 20 for rolling in contact with a floor; and at least one spacing element 35 for controlling an amount of space between adjacent ones of said plurality of racks when a spacing element of one of the plurality of racks contacts a spacing element of an adjacent one of the plurality of racks.

In regard to claim 12, Fujita et al. further disclose each of said spacing elements including at least one arm 34 located spaced from the rack on which the spacing element is mounted (see FIG. 2).

In regard to claims 18 and 20, said guide arrangement 2a,2b is anchored to said fixed racks 3, with said fixed racks disposed at the longitudinal ends of said guide arrangement (see FIG. 1; see col. 1, ln. 32-35).

In regard to claim 22, said guide arrangement comprises two guide rods 2a and 2b (see FIG. 1).

In regard to claim 29, said fixed elements are storage racks, as set forth above (see FIG. 1).

Claims 19, 20, 22-24, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,941,578 to Devening.

In regard to claim 19, Devening discloses a storage system comprising: a plurality of storage racks 13 including movable storage racks, said movable storage racks being movable between fixed elements (see col. 1, ln. 64-68) located at opposite sides of a group of the movable storage racks, the movable storage racks including lower wheels 18 for rolling in contact with the floor, a guide arrangement 25 for guiding

Art Unit: 3634

movement of the movable storage racks, and at least one spacing element for controlling an amount of space between adjacent ones of the movable storage racks (see FIG. 2).

In regard to claims 20 and 22, said guide arrangement 25 includes a guide rod/rail that extends between the fixed elements (see col. 1, ln. 61-65).

In regard to claim 23, said guide rod cooperates with a guide sleeve 22 mounted on the movable storage racks (see FIGS. 1 and 4).

In regard to claim 24, said guide sleeve is mounted on a plate 20, the plate forming the spacing element (see FIG. 4)

In regard to claim 29, said fixed elements are fixed storage racks (see FIG. 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over '106 to Fujita et al. as applied to claims 11, 12, 18, 19, 20, 22, and 29 above, alone.

In regard to claims 17 and 30, Fujita et al. discloses a rack system capable of storing various articles, but does not specifically set forth said system as storing tires. The Examiner takes Official Notice that it would have been obvious to one of ordinary

Art Unit: 3634

skill in the art at the time of the invention to utilize the rack as disclosed by Fujita et al. for the storage of tires, or any other reasonably sized article. The system of Fujita et al. is capable of and would be a successful means for effectively storing tires.

Claims 17 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over '578 to Devening as applied to claims 19, 20, 22, 23, and 29 above, alone. In regard to claims 17 and 30, Devening discloses a rack system capable of storing various articles, but does not specifically set forth said system as storing tires. The Examiner takes Official Notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the rack as disclosed by Devening for the storage of tires, or any other reasonably sized article. The system of Devening is capable of and would be a successful means for effectively storing tires.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over '106 to Fujita et al. as applied to claims 11, 12, 18, 19, 20, 22, and 29 above, and further in view of US Patent No. 3,691,590 to Drabert.

In regard to claim 16, Fujita et al. disclose the system set forth above, but do not disclose said wheels comprising a surrounding protective boot. Drabert discloses a castor for use with various types of furniture, whereby the castor comprises an outer protective boot 2 (see FIG. 1). The Fujita et al. and Drabert references are analogous art because they are from the same field of endeavor—wheeled furniture. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the

Art Unit: 3634

wheels of the moving racks as disclosed by Fujita et al. with the protective boots or housings disclosed by Drabert. The motivation would have been that as set forth by Drabert—to prevent the racks from tipping over (see Abstract, ln. 7-8). Preventing said racks from tipping would be a useful precaution when said racks are removed from the guide assemblies as shown in Figure 4 (Fujita et al.).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US Patent No. 6,726,039 to Boron
- US Patent No. 6,510,954 to Reddig
- US Patent No. 5,938,047 to Ellis et al.
- US Patent No. 5,636,750 to Heyl
- US Patent No. 5,076,442 to Hakeem
- US Patent No. 3,567,039 to Evans
- US Patent No. 2,928,550 to Stobie
- US Patent No. 1,807,075 to Skar et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

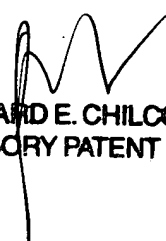
Art Unit: 3634

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jared W. Newton  
July 31, 2006  
JWN



**RICHARD E. CHILCOT, JR.**  
**SUPERVISORY PATENT EXAMINER**